

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of)
 Hans-Peter Call)
 Serial No.: 09/029,401)
 Filing Date: February 19, 1998)
 For: MULTICOMPONENT SYSTEM FOR USE)
 WITH DETERGENT SUBSTANCES)
)
)

Examiner: Richard B. Lazarus
 Group Art Unit: Supervisory PCT
 Legal Examiner

Attn: Richard B. Lazarus
 Supervisory PCT Legal Examiner
 PCT Legal Office
 Commissioner of Patents and Trademarks
 Washington, DC 20231

RECEIVED

08 DEC 1998

Legal Staff
 International Division

**PETITION UNDER 37 CFR §1.182 FOR CORRECTION
 OF ERROR IN TRANSCRIPTION**

Sir:

By a letter dated October 29, 1998, entitled "Response to Status Inquiry" from Ms. Sally Gardner-Lane and Mr. Richard B. Lazarus in the PCT Legal Office, the applicant was informed that the processing of the referenced U.S. national application has been held in abeyance because the transmittal papers by which this national application was filed identify it as the U.S. national stage filing corresponding to International Application No. PCT/DE96/02658 but the transmittal papers were not accompanied by a copy of such application and rather were accompanied by a copy of International Application No. PCT/EP96/02658.

For the reasons more fully explained below, the applicant respectfully submits that the reference in the transmittal papers to PCT/DE96/02658 merely represents only an obvious typographical error in the transcription of the transmittal papers which is clearly apparent from the overall filing (particularly the copy of the international application filed with the transmittal papers) and which, therefore, the applicant should be permitted to correct without abandonment

of the application and without loss of the applicable international and national filing dates. The applicant accordingly hereby petitions the Commissioner, by and through the PCT Legal Office (to whom the applicant understands that authority for ruling upon petitions in PCT matters has been delegated by the Commissioner), to correct the transmittal papers to properly reference International Application No. PCT/EP96/02658 and to accept and treat this national application as the U.S. national stage of such international application rather than International Application No. PCT/DE96/02658.

First and foremost, the applicant respectfully submits that this transcriptional error in the transmittal papers is manifestly obvious from the overall application package as a whole. Specifically, other than the typographical error in the identification of the international application, the transmittal papers and the contemporaneously filed copies of International Application No. PCT/EP96/02658 and the publication of such application as International Application No. WO97/48786 fully correspond with one another as to all other relevant identifying data, specifically, as to the international filing date, title of the invention/application, name of the applicant and subject matter. Further, the copies of both the international application and the international publication of the application (and its Search Report) specifically reference the correct international application number PCT/EP96/02658 on each page thereof. Since all data set forth in the transmittal papers precisely corresponds to the contemporaneously submitted copies of the international application and the international publication thereof other than the incorrect identification of the international application number, and since furthermore the international application number itself is incorrect only as to the use of the country code DE instead of the correct code EP, it is respectfully submitted that the error in

transcription is readily obvious from the application papers themselves without any need for the PTO to look outside or beyond the papers as filed.

Secondly, because the correct International Application No. PCT/EP96/02658 had designated the United States, the PTO had already previously received from the International Bureau a copy of International Application No. PCT/EP96/02658 from which the obviousness in the error of transcription may be cross checked and verified. In addition, by the time of the present applicant's entry of the U.S. national phase by the filing of the present application on February 19, 1998, International Application No. PCT/DE96/02658 had (or should have) been published, access to which records the applicant believes is readily available to the PTO and from which the error of transcription could be further corroborated and would be further obvious.

Thirdly, it is equally important to note that the correction requested by the applicant by this petition is not inconsistent with any law or regulation. The applicable statutes at 35 USC §371 *et seq* and the implementing regulations at 37 CFR §1.491 *et seq* merely require the applicant to do two things before the expiration of 20 months from the priority date in order to avoid abandonment of the U.S. national stage application: (a) file a copy of the international application; and (b) pay the basic national fee. See specifically 37 CFR §1.494(b). In the present case, the applicant's filing made on February 19, 1998, submitted both required items. As already indicated, the copy of the international application submitted by the applicant correctly identifies on each page thereof International Application No. PCT/EP96/02658. It is further notable that neither the applicable statutes nor the implementing regulations require the applicant to submit the transmittal papers in question. Accordingly, under these circumstances, it is submitted that any ambiguity between the papers required by statute and regulation to be filed (namely, the international application itself) versus other papers not specifically required by

statute or regulation, (namely, the transmittal forms here in question), especially in the case of a lack of identity between only two characters out of a 12 character application number, should be resolved in favor of following the papers required by statute, whereby the correct international application number appearing on the international application copy should control.

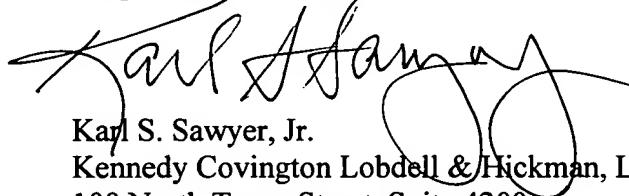
Finally, it is additionally worth mention and recognition that the correction requested by the applicant is analogous to other transcriptional errors which PTO practice routinely permits to be corrected through normal prosecution before the Examiner without requiring a formal petition to the Commissioner. For example, the typographical error in the identification of the international application in this case is quite analogous to a typographical error incorrectly identifying the parent application in a subsequently filed continuation, division or continuation-in-part. Likewise, another analogous situation would be a typographical error incorrectly identifying a foreign priority application. Such errors are routinely corrected by amendment or, in some cases, by a substitute declaration, in practice before the Examiner assigned to the application without requiring the formality of a petition to the Commissioner. It is equally worth noting, by way of further analogy, that PCT Rule 91 permits obvious errors in transcription appearing in the application's specification itself to be corrected by amendment. It is submitted that no higher standard for correction should be required of the present applicant to correct an obvious error in transcription in identifying the corresponding international application number in the transmittal papers of the present application.

For all of the reasons set forth above, it is respectfully submitted that, pursuant to the authority of 37 CFR §1.182, the applicant should be permitted through this petition to correct the above-discussed transcriptional error in the identification of the corresponding international application in the transmittal papers submitted with this application. The present application

should not be declared abandoned (which would be contrary to the provisions of 37 CFR §1.494(b)) and the applicant should receive the benefit of its international and national filing dates. Favorable consideration and grant of this petition are respectfully requested.

Submitted herewith is a check in the amount of \$130.00 in payment of the applicable petition fee under 37 CFR §1.17(h).

Respectfully submitted,



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Karl S. Sawyer
ATTORNEY FOR APPLICANT